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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/603,625	06/26/2003	Shigeki Matsubara	KAS-183	4454
7590 03/04/2009		EXAMINER		
MATTINGLY, STANGER & MALUR, P.C.		JARRETT, LORE RAMILLANO		
SUITE 370		ART UNIT	PAPER NUMBER	
1800 DIAGONAL ROAD			1797	
ALEXANDRIA, VA 22314				
		MAIL DATE	DELIVERY MODE	
		03/04/2009	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/603,625	Applicant(s) MATSUBARA ET AL.
	Examiner LORE RAMILLANO	Art Unit 1797

–The MAILING DATE of this communication appears on the cover sheet with the correspondence address –

THE REPLY FILED **18 February 2009** FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) The period for reply expires 4 months from the mailing date of the final rejection.
- b) The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because

- (a) They raise new issues that would require further consideration and/or search (see NOTE below);
- (b) They raise the issue of new matter (see NOTE below);
- (c) They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet. (See 37 CFR 1.116 and 41.33(a)).

4. The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. Applicant's reply has overcome the following rejection(s): _____.

6. Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. For purposes of appeal, the proposed amendment(s): a) will not be entered, or b) will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: none.

Claim(s) objected to: none.

Claim(s) rejected: 1-6.

Claim(s) withdrawn from consideration: none.

AFFIDAVIT OR OTHER EVIDENCE

8. The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fail to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. The request for reconsideration has been considered but does NOT place the application in condition for allowance because:

See Continuation Sheet.

12. Note the attached *Information Disclosure Statement(s)*. (PTO/SB/08) Paper No(s). _____

13. Other: _____.

/Jill Warden/
Supervisory Patent Examiner, Art Unit 1797

Lore Ramillano
Examiner
Art Unit: 1797

Continuation of 3. NOTE: The amendment to claim 6 appears to further limit the scope of the claim since applicant now recites that the automatic analyzer comprises an analysis unit button instead of an analysis unit section. Such amendment would require further search and consideration.

Continuation of 11. does NOT place the application in condition for allowance because: applicant's arguments are not persuasive. In response to applicant's argument that none of the functions disclosed in Ohishi include separating an analysis unit from the information network to enable shut off of a power supply to the analysis unit while other analysis units are maintained connected to the information network, examiner respectfully disagrees. As stated in the Final Rejection, filed on 8/15/08, while features of an apparatus may be recited either structurally or functionally, claims directed to an apparatus must be distinguished from the prior art in terms of structure rather than function alone. Here, Ohishi discloses the structural limitations recited in claims 1-6, as indicated in the above paragraph. Ohishi appears to be capable of performing the functional language recited in these claims, i.e. "central control device has a function separating one of the analysis units from the information network", because Ohishi discloses in, i.e. col. 10, lines 1-23, that the control unit has the ability of disassociating the analysis unit with the abnormality from the host control computer (40) by instructing another analysis unit to take over the abnormal analysis unit's operation. The host control computer is inherently involved in this disassociation function since Ohishi discloses in i.e. col. 4, lines 32-50 that this host control computer has the ability to execute operation control of each analysis portion, the rack transfer system, and other necessary portions in the system. In response to applicant's argument that one having ordinary skill in the art would realize that in Ohishi that the operator of the Ohishi automatic analyzer would shut off the power supply of the entire sample analysis system in order to remove the analysis, examiner does not find this argument to be persuasive because arguments that the alleged anticipatory prior art is nonanalogous art or teaches away from the invention, or is not recognized as solving the problem solved by the claimed invention is not germane to a rejection under section 102. In response to applicant's argument that Ohishi does not disclose a mode setting screen, examiner respectfully disagrees. In col. 4, lines 47-50, Ohishi discloses a CRT for information display.